

State of California HEALTH AND HUMAN SERVICES AGENCY



DIANA S. DOOLEY
SECRETARY

Aging

Alcohol and
Drug Programs

Child Support
Services

Community Services
and Development

Developmental
Services

Emergency Medical
Services Authority

Health Care Services

Managed Risk
Medical Insurance Board

Mental Health

Public Health

Rehabilitation

Social Services

Statewide Health
Planning and
Development

August 1, 2011

Privacy Steering Team members,

Although I couldn't be with you in person today, I wanted to take a moment to extend my gratitude for the extensive work that the Privacy Committee has done and continues to do. The task at hand is far from easy with many components that at times contradict themselves. The current environment we find ourselves in has developed over many years to solve different problems and concerns as they arose. For the most part these actions were not developed with electronic exchange of information in mind. Out of necessity, business processes have developed without the benefit of clear and consistent statutory guidance. California and federal statute and regulations have developed at different times and continue to develop. In particular, the federal statute and regulatory environment is changing under HITECH as we speak. This makes our work all the more challenging as we work to harmonize California law with changing Federal law and seek to develop regulations that provide the detail necessary to implement California law.

The development of electronic health information exchange presents us with an experience that is common to all automation projects. At the simplest level, computer systems understand yes/no answers and do not take into account shades of grey. This forces us to be clear about our processes so that they can be captured in the electronic systems in uniform ways. Transitioning from paper-based to electronic forces us to understand our work in new ways. Each provider, clinic, hospital, health plan, health system is now expected to use the same standards and processes so that we can be interoperable and improve patient care. This does not happen overnight. In the best of circumstances it may take more than five years post-implementation of a particular IT system to make these changes and in the process we learn that the same activity has been done in many ways, not all of which are compliant with law. This is not because individuals meant to be out of compliance but rather the circumstances in their environment caused them to adapt to the day-to-day and urgent needs without the external influences that encourage standardization.

Although none of this is new to you and you have been working through these issues and challenges I wanted to take a moment to recognize this complexity and challenge. In these situations people may feel threatened or attacked and it is important for us to understand and help look for the solutions that create the place we all want to be – a secure, trusted way to exchange personal health information between interoperable applications throughout the health system that improves patient care, improves quality of services, decreases cost and ultimately improves the health of the patients and their families in our communities.

Given this context, I want to reinforce our commitment to the work you are doing. As the HIT Coordinator, one of my responsibilities is to the work we committed to doing in our California HIE Strategic and Operational Plans. While the ONC will ask us to update these plans in the future, they serve as our guide and are the activities we are responsible for under the HIE Cooperative Agreement Grant. In the Strategic Plan, Section 7 specifically identifies the following activities:

- "Ensure the flow of individual health information to improve the quality of health care while safeguarding the privacy of the information,
- Achieve clarity and uniformity in the application of privacy and security rules,

- Assure security in the exchange of clinical data,
- Harmonize California law, court orders, regulations, guidelines, and federal law,
- Coordinate California's requirements with evolving rules at the federal level, and
- Strive to harmonize disparate requirements of neighboring states to enable efficient administration."

In Section 9 of the Operational Plan we outlined recent work, described the CalOHII HIE Guideline Development Process and provided timelines for the work of the Privacy Committee, the Legal Committee, the Security Committee, the HIE Committee and the Education Committee. These items in both plans will need to be revisited in our expected updates to ONC. We will need to explain what we have accomplished, what we haven't and what we believe we will accomplish moving forward. We have learned much since the publishing of these documents in October, 2009 and April, 2010. There have been significant changes at the federal level both in the regulatory environment and in the expectations with respect to the speed at which our tasks can be accomplished. Original grant deadlines for deliverables and updates have been extended and we are currently waiting for updated deadlines to be set.

In June, 2011 we had a programmatic site visit for the HIE Cooperative Agreement from ONC. This was a three day visit and our Project Manager, Chris Muir, was very impressed with the work being accomplished. California continues to be seen as a leader. During the visit, Mr. Muir emphasized the priorities set forth in the Program Information Notice of August, 2010 that every EHR Incentive Program eligible provider and eligible hospital have at least one option to achieve meaningful use for e-Prescribing, exchange of structure lab results, and exchange of patient care summaries (CCD or CCR) across unaffiliated organizations. At CHHS we are refocusing our work around these three priorities set forth by ONC.

Thank you again for your dedication and all of your work to advance the privacy and security environment for electronic exchange of health information in California. It is important for us to keep the patients and their families at the center of our efforts as we establish the necessary trust environments to protect the patients, the providers, and the many components of our health system. I look forward to hearing about your meeting today and continuing to work with you in the future.

With gratitude,

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 California Health and Human Services Agency